

Appl. No. : 09/905,088  
Filed: : July 12, 2001

41. (Once amended) The isolated polypeptide of Claim 39 having at least 90% amino acid sequence identity to:

- (a) the amino acid sequence of the polypeptide shown in Figure 2 (SEQ ID NO: 2); or,
- (b) the amino acid sequence of the polypeptide shown in Figure 2 (SEQ ID NO: 2), lacking its associated signal peptide; or,
- (c) the amino acid sequence of the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 209258;  
wherein, said polypeptide is associated with the formation or growth of lung or colon tumor.

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42. (Once amended) The isolated polypeptide of Claim 39 having at least 95% amino acid sequence identity to:

- (a) the amino acid sequence of the polypeptide shown in Figure 2 (SEQ ID NO: 2); or,
- (b) the amino acid sequence of the polypeptide shown in Figure 2 (SEQ ID NO: 2), lacking its associated signal peptide; or,
- (c) the amino acid sequence of the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 209258;  
wherein, said polypeptide is associated with the formation or growth of lung or colon tumor.

43. (Once amended) The isolated polypeptide of Claim 39 having at least 99% amino acid sequence identity to:

- (a) the amino acid sequence of the polypeptide shown in Figure 2 (SEQ ID NO:2); or,
- (b) the amino acid sequence of the polypeptide shown in Figure 2 (SEQ ID NO:2), lacking its associated signal peptide; or,
- (c) the amino acid sequence of the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 209258;  
wherein, said polypeptide is associated with the formation or growth of lung or colon tumor.

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44. (Once amended) An isolated polypeptide comprising:

- (a) the amino acid sequence of the polypeptide shown in Figure 2 (SEQ ID NO: 2); or,
- (b) the amino acid sequence of the polypeptide shown in Figure 2 (SEQ ID NO: 2), lacking its associated signal peptide; or,
- (c) the amino acid sequence of the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 209258.

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49. (Once amended) The isolated polypeptide of Claim 44 comprising the amino acid sequence of the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 209258.

#### Remarks/Arguments

The foregoing amendments in the specification and claims are of formal nature, and do not add new matter. In particular, the amendments to the specification serve to provide a more specific title, and to remove the hyperlinks embedded in the specification. Specific support or the language that the encoded polypeptide is associated with the formation or growth of lung or colon tumor is, for example, in the Summary section of Example 92.

Prior to the present amendment, claims 39-51 were pending in this application and were rejected on various grounds. Claims 47 and 48 have been cancelled, claims 39-44 and 49 have been amended .

#### Priority

Based on the ability of the claimed polypeptides to inhibit VEGF stimulated proliferation of adrenal cortical capillary endothelial cells, which was disclosed in application PCT/US00/04414, the Examiner accorded February 22, 2000 as the earliest priority date to the present application. As discussed in the arguments below, the gene amplification data, which provide patentable utility for the PRO211 polypeptides claimed, were first disclosed in application PCT/US98/18824, filed on September 10, 1998. Accordingly, the effective priority date of the present application is September 10, 1998.